

## Calendar No. 51

104TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
104-28

### TO EXTEND THE AUTHORIZATION FOR CERTAIN PROGRAMS UNDER THE NATIVE AMERICAN PROGRAMS ACT OF 1974, AND FOR OTHER PURPOSES

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APRIL 5, 1995.—Ordered to be printed

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Mr. MCCAIN, from the Committee on Indian Affairs,  
submitted the following

### REPORT

[To accompany S. 510]

The Committee on Indian Affairs, to which was referred the bill (S. 510), to extend the authorization for certain programs under the Native American Programs Act of 1974, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

#### PURPOSE

The purpose of S. 510, as amended, would amend the Native American Programs Act of 1974, P.L. 93-644, (42 U.S.C. 2992d) to extend to fiscal year 1999 the authorization of appropriations for four grant programs administered by the Administration for Native Americans (ANA) within the Department of Health and Human Services. The authorization for most of these appropriations expires with fiscal year 1995.

#### BACKGROUND

S. 510 was introduced on March 7, 1995 by Senators McCain and Inouye. Senator Campbell joined as a co-sponsor. The bill as introduced would reauthorize two programs within the Native American Programs Act of 1974 by extending for 4 years the authority for general ANA grant appropriations which would otherwise expire in fiscal year 1995, and extending for 3 years the authority for ANA

tribal environmental quality grant appropriations which would otherwise expire in fiscal year 1996.

The Committee Substitute Amendment differs from the bill as introduced in that it adds provisions reauthorizing two additional programs under the Native American Programs Act of 1974: the Native American Languages Grant Program, which would otherwise expire in fiscal year 1997, and the Native Hawaiian Revolving Loan Fund program, specific authority for which expired in fiscal year 1994. Accordingly, the Substitute Amendment would reauthorize four separate programs under the Native American Programs Act of 1974 through fiscal year 1999.

At the Committee's March 22, 1995 hearing, the Administration testified in support of reauthorizing the ANA grant programs. The Committee requested that the Administration provide it with the Administration's specific position on the reauthorization of the Native Hawaiian Revolving Loan Fund before the Committee's Business Meeting on March 29th. On March 28th, the Committee received a letter from the Administration indicating its specific support for reauthorization of the Native Hawaiian loan fund as well as the other provisions reauthorized in the Committee's Substitute Amendment. At the hearing the Committee also received testimony in support of extending the reauthorization of the Native American Languages grant program to fiscal year 1999. On March 29, 1995, the Committee adopted the Substitute Amendment to S. 510 and ordered S. 510 to be favorably reported to the Senate as amended with a recommendation that it do pass.

The President's Budget Request for fiscal year 1996 for programs administered by the Administration for Native Americans is \$38,461,000. For the past several years, the appropriations for ANA grants have remained at substantially that same level. In fiscal year 1994, ANA provided more than 200 grants for governance, social and economic development projects. It also provided several dozen grants to assist tribal recognition efforts, 26 grants for projects assisting tribes to meet Federal or other environmental requirements, 18 grants to support projects assisting the survival of Native American languages, and funds to support the Native Hawaiian Revolving Loan Fund. The principle category of funding is for Social and Economic Development Strategies (SEDS) grants which support tribal social and economic development efforts, the creation or expansion of business and job opportunities, and support for governmental development. Eligible grantees include the more than 550 federally-recognized tribes, approximately 60 tribes that are either State-recognized or are seeking federal recognition, and Indian and Alaska Native organizations, Native Hawaiian communities, and Native populations throughout the Pacific Basin.

#### OTHER CONSIDERATIONS

Although the Administration had requested ANA funding for fiscal year 1996 at fiscal year 1995 levels, it delayed forwarding a bill to the Congress to reauthorize the Act until March 28, 1995. The Committee Substitute Amendment substantially reflects the Administration's proposed bill.

Under the rules governing consideration of appropriations bills in the House of Representatives, any bill which contains an unauthor-

ized appropriation may be subject to a point of order. Accordingly, the Committee on Appropriations in the House is under pressure to carefully scrutinize every appropriation matter and exclude those for which there is no authorization. If the continuation of the ANA programs is to be assured, S. 510 will need to be enacted before the House and Senate take up the fiscal year 1996 Interior and Related Agencies appropriations bill in the coming weeks.

#### DISCUSSION OF MAJOR PROVISIONS OF S. 510

S. 510 would reauthorize the Native American Programs Act of 1974 by extending current authority to fiscal year 1999 for general ANA grant appropriations, ANA tribal environmental quality grant appropriations, Native Languages grants, and the Native Hawaiian Revolving Loan Fund program.

#### LEGISLATIVE HISTORY

S. 510 was introduced on March 7, 1995 by Senator McCain, for himself and Senator Inouye, and was referred to the Committee on Indian Affairs. Senator Campbell joined as a co-sponsor on March 9, 1995. The Committee held a hearing to receive testimony on S. 510 from the Administration and Indian tribes on March 22, 1995 in Washington, D.C.

#### COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On March 29, 1995, the Committee on Indian Affairs, in an open business session, considered an amendment in the nature of a substitute to S. 510 proposed by Chairman McCain. By unanimous vote the Committee adopted the Substitute Amendment to S. 510 and ordered S. 510 to be favorably reported to the Senate as amended with a recommendation that it do pass.

#### SECTION-BY-SECTION ANALYSIS

##### SECTION 1. AUTHORIZATION OF CERTAIN APPROPRIATIONS UNDER THE NATIVE AMERICAN PROGRAMS ACT OF 1974

###### (a) Section 816.—

(1) This subsection provides for a four year extension to fiscal year 1999 of the present authority to appropriate such sums as may be necessary for the purpose of carrying out the provisions of the Native American Programs Act of 1974 which do not otherwise have an express authorization of appropriation.

(2) This subsection provides for a three year extension to fiscal year 1999 of the present authority to appropriate \$8,000,000 for the purpose of carrying out the provisions Title 42, Section 2991b(d) of the United States Code relating to grants to improve tribal regulation of environmental quality.

(3) This subsection strikes a \$2 million authorization and provides a two year extension to fiscal year 1999 “such sums as may be necessary” for the purpose of carrying out the provisions of Title 42, Section 2991b–3 of the United States Code relating to grants to preserve Native Languages.

(b) Section 803A(f)(1). This subsection strikes a \$1 million authorization and extends authority to fiscal year 1999 of “such sums as may be necessary” for funds provided to carry out the provisions of Title 42, Section 2991b-1 of the United States Code relating to grants to support the Native Hawaiian Revolving Loan Fund.

#### COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 510, as amended, as provided by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 4, 1995.*

Hon. JOHN MCCAIN,  
*Chairman, Committee on Indian Affairs,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 510 as ordered reported by the Senate Committee on Indian Affairs on March 29, 1995.

Enactment of S. 510 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 510.
2. Bill title: A bill to extend the authorization for certain programs under the Native American Programs Act of 1974, and for other purposes.
3. Bill status: As ordered reported by the Senate Committee on Indian Affairs on March 29, 1995.
4. Bill purpose: S. 510 would authorize appropriations for certain programs under the Native American Programs Act of 1974 for fiscal years 1996 through 1999.
5. Estimated cost to the Federal Government: Some of the authorizations in S. 510 are for “such sums as may be necessary.” For the purpose of this estimate, CBO has projected the authorizations and outlays for those programs under two different sets of assumptions. In one case, we have adjusted the estimated amounts for projected inflation after 1995. In the other, we have made no allowance for projected inflation. The following table summarizes the estimated budgetary impact of the bill.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Authorizations under current law:						
Estimated authorization level <sup>1</sup> .....	39	8	( <sup>2</sup> )	.....	.....	.....
Estimated outlays .....	39	32	10	.....	.....	.....
“Such Sums” Authorizations Projected at the 1995 Level						
Proposed changes:						
Estimated authorization level .....		38	46	47	47	.....
Estimated outlays .....		8	35	45	46	36

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Authorizations under S. 510:						
Estimated authorization level <sup>1</sup> .....	39	47	47	47	47	.....
Estimated outlays .....	39	40	46	45	46	36
"Such Sums" Authorizations Adjusted for Inflation						
Proposed changes:						
Estimated authorization level .....		39	49	51	52	.....
Estimated outlays .....		9	37	48	51	40
Authorizations under S. 510:						
Estimated authorization level .....	39	48	49	51	52	.....
Estimated outlays <sup>1</sup> .....	39	41	47	48	51	40

Note: Details may not add to totals because of rounding.

<sup>1</sup>Less than \$500,000.<sup>2</sup>The amounts shown for 1995 are enacted appropriations.

The costs of this bill fall within budget function 500.

6. Basis of estimate: S. 510 reauthorizes funding for Native American programs under the Native American Programs Act of 1974 for fiscal years 1996 through 1999. This estimate assumes that all authorizations are fully appropriated at the beginning of each fiscal year. CBO estimates outlays using spending rates computed on the basis of recent program data.

Most activities authorized by the Native American Programs Act of 1974 are currently authorized at such sum as may be necessary through fiscal year 1995. Exceptions include: the grants to improve tribal regulation of environmental quality, which are authorized at \$8 million a year through Fiscal year 1996, though they have never been funded; grants to ensure the survival and continuing vitality of Native American languages, which are authorized at such sums as may be necessary through fiscal year 1997; and the Native Hawaiian Loan Funds, which was authorized at \$1 million through fiscal year 1994.

For fiscal year 1995 the Congress provided \$38.5 million for all Native American programs, and did not allocate the funds among the authorized programs. The Department of Health and Human Services allocated \$1 million for the Native Hawaiian Loan Fund, \$400,000 for the grants to ensure the survival and continuing vitality of Native American languages, and the remainder to other Native American programs. Where S. 510 authorizes such sums as may be necessary, CBO bases its estimates on these allocations.

The bill would authorize appropriations of such sums as may be necessary for all of the above activities for fiscal years 1996 through 1999, except for the grants to improve tribal regulation of environmental quality, which would be authorized at \$8 million per year through 1999. Under the assumption that appropriations (other than the \$8 million) are increased to reflect projected inflation, estimated authorization amounts would increase to \$48 million in fiscal year 1996, and to \$52 million in fiscal year 1999. If appropriations are not increased to reflect projected inflation, estimated authorization amounts would be \$46 million in fiscal years 1996 through 1999.

7. Pay-as-you-go considerations: None.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Dorothy Rosenbaum.
12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

#### REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 510, as amended, will have a minimal impact on regulatory or paperwork requirements.

#### EXECUTIVE COMMUNICATIONS

The Committee received two letters from the Department of Health and Human Services, which are reprinted below. The first provides the views of the Administration on S. 510 as introduced. The second provides the views of the Administration on a bill similar to the Committee substitute.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,  
*Washington, DC, March 28, 1995.*

Hon. JOHN MCCAIN,  
*Chairman, Committee on Indian Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: We take this opportunity to express our views on S. 510, legislation that would authorize appropriations of such sums as necessary for the Native American Social and Economic Development Strategies (SEDs) Grant Program for four years, through fiscal year 1999.

We support this legislation. We believe the SEDs program plays a vital role in supporting Indian and Native American self-determination, emphasizing local control and decision-making, fostering Tribal and local community responsibility, and supporting activities that develop the economic, social and governance capacities of Native American communities. In addition, we support the continuation of the Native Hawaiian Revolving Loan Fund consistent with the President's FY 1996 Budget.

The SEDs Program will support the continuation of activities which cover a wide range of interrelated social and economic development efforts, including the expansion and creation of businesses and jobs, youth leadership projects, cultural preservation projects, energy and natural resource management projects, fish and wildlife preservation projects, and governance projects which include the development of new and existing Tribal constitutions and by-laws. Therefore, we support extension of this important program for Native Americans.

The Office of Management and Budget has advised us that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONNA E. SHALALA.

THE SECRETARY OF HEALTH AND HUMAN SERVICES,  
*Washington, DC, March 28, 1995.*

HON. ALBERT GORE, Jr.,  
*President of the Senate,*  
*Washington, DC.*

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill to extend the authorization of appropriations for programs under the Native American Programs Act of 1974, and for other purposes.

The draft bill would authorize appropriations of such sums as necessary for the Native American Social and Economic Development Strategies (SEDs) Grant Program for four years, through fiscal year 1999. The SEDs program supports Indian and Native American self-determination, emphasizes local control and decision-making, fosters Tribal and local community responsibility, and supports activities that develop the economic, social and governance capacities of Native American communities.

The draft bill would also establish the Native Hawaiian Revolving Loan Fund (NHRLF) as a permanent program and would extend the authorization of appropriations for the NHRLF for four years, through fiscal year 1999. The NHRLF was established as a demonstration project to address under-representation of Native Hawaiians in business ownership and inadequate access for Native Hawaiians to financing programs. The NHRLF has been very successful in promoting economic development activities for Native Hawaiians. Permanent establishment and extension of this program will enable us to continue to support efforts to allow for broader participation of the Native Hawaiian community in accessing economic development opportunities.

We urge that the Congress give the draft bill its prompt and favorable consideration.

The Office of Management and Budget has advised that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

DONNA E. SHALALA.

Enclosure.

A BILL To extend the authorization of appropriations for programs under the Native American Programs Act of 1974, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

**SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR NATIVE AMERICAN SOCIAL AND ECONOMIC DEVELOPMENT STRATEGIES GRANT PROGRAM.**

Section 816(a) of the Native American Programs Act of 1974 (42 U.S.C. 2992d(a)) is amended by striking out "for fiscal years 1992, 1993, 1994, and 1995." and inserting instead "for each of the fiscal years 1996, 1997, 1998, and 1999."

**SEC. 2. NATIVE HAWAIIAN REVOLVING LOAN FUND.**

(a) PERMANENT ESTABLISHMENT OF LOAN FUND.—Section 803A of the Native American Programs Act of 1974 (42 U.S.C. 2991b–1) is amended—

(1) in the heading, by striking “demonstration project”; and

(2) in subsection (a), by striking “a demonstration project involving the establishment of”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 803A(f)(1) of that Act (42 U.S.C. 2991b–1(f)(1)) is amended by striking out “for each of the fiscal years 1992, 1993, and 1994, \$1,000,000” and inserting instead “\$1,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999”.

(c) REPORTING.—Section 803A(g) of that Act (42 U.S.C. 2991b–1(g)) is amended to read as follows:

“(g) The Office shall provide to the Commissioner, at such time and in such manner as the Commissioner may require, such information as is reasonably necessary to determine compliance with the purposes and provisions of this section.”.

**CHANGES IN EXISTING LAW**

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*).

**TITLE 42, SECTION 2992d**

(a) There are authorized to be appropriated for the purpose of carrying out the provisions of this subchapter (other than sections 2991b(d), 2991b–1 2991b–3 of this title, subsection (e) of this section, and any other provision of this subchapter for which there is an express authorization of appropriations), such sums as may be necessary **【for fiscal years 1992, 1993, 1994, and 1995.】** *for each of fiscal years 1996, 1997, 1998, and 1999.*

\* \* \* \* \*

(c) There are authorized to be appropriated \$8,000,000 **【for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.】** *for each of fiscal years 1996, 1997, 1998, and 1999,* for the purpose of carrying out the provisions of section 2991b(d) of this title.

\* \* \* \* \*

(e) There are authorized to be appropriated to carry out section 2991b–3 of this title, **【\$2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997.】** *such sums as may be necessary for each of fiscal years 1996, 1997, 1998, and 1999.*

**TITLE 42, SECTION 2991b–1(f)**

Authorization of appropriations; investment in obligations of United States.



(1) There is authorized to be appropriated [for each of the fiscal years 1992, 1993, and 1994, \$1,000,000] *such sums as may be necessary for each of fiscal years 1996 through 1999*, for the purpose of carrying out the provisions of this section. Any amount appropriated under this paragraph shall remain available for expenditure without fiscal year limitation.

